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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF ALASKA
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8 MONIQUE R. SNEAD, Individually and
9 as Personal Representative of the
10 Estate of John H. Snead; JOHN G.
11 SNEAD, Individually and as Trustee
12 of the Snead Irrevocable Trust;
13 MONIQUE R. SNEAD and JOHN G.
14 SNEAD, both individually and as
15 beneficiaries of the John H. Snead
16 Revocable Trust and the Snead
17 Irrevocable Trust,
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19 Plaintiffs,

20 vs.

21 GUADALUPE C. WRIGHT; and
22 MERRILL LYNCH, PIERCE, FENNER
23 & SMITH INCORPORATED,
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25 Defendants.
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3:19-CV-00092 JWS

ORDER AND OPINION

[Re: Motion at Doc. 15]

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I. MOTION PRESENTED

At docket 15 Defendant Guadalupe C. Wright (Wright) moves for a stay of this federal action pending resolution of a state court case, Alaska Superior Court Case No. 3AN-17-09177, pursuant to the *Colorado River* state court deference doctrine.¹ Plaintiffs Monique R. Snead and John G. Snead, in their various capacities (collectively Plaintiffs or the Sneads), oppose the request at docket 23. Wright replies at docket 26. Oral argument was requested but denied as unnecessary.

¹*Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817-19 (1976).

II. BACKGROUND

In September of 2017, Monique Snead filed a complaint against Wright in Superior Court for the State of Alaska. She filed as the personal representative of the estate of her father, John H. Snead. John H. Snead had been in a long-term relationship with Wright up until his death on August 7, 2017. The state court complaint against Wright alleges that leading up to her father's death, when he was "in poor health" and "not competent to make financial or legal decisions," Wright took property that belonged to John H. Snead and unduly influenced or coerced him to transfer ownership of property to her.² It also alleges that Wright unlawfully transferred funds without authority from accounts belonging to John H. Snead, his estate, and the Snead Irrevocable Trust—a Merrill Lynch trust account pursuant to which Monique Snead and her brother, John G. Snead, were beneficiaries, with John G. Snead as the trustee. The state court complaint raised a claim for conversion of property, including the money in the trust, and a claim for undue influence.³

The parties exchanged discovery. As part of the discovery process Monique Snead, in her representative capacity, provided responses to Wright's interrogatories and requests for production. As part of her response to an inquiry about the basis for her undue influence claim, Monique Snead indicated that Wright had coerced her father to withdraw funds from her father's Merrill Lynch revocable trust account, the John H. Snead Revocable Trust and the Snead Irrevocable Trust account.⁴ Monique Snead also issued a Rule 30(b)(6) deposition notice to Merrill Lynch and indicated that she was seeking information about her father's various trust accounts and withdrawals made from those accounts.⁵ She requested information about Wright's employment with

²Doc. 16-2 at p. 2, ¶ 6.

³Doc. 16-2 at pp. 3-4.

⁴Doc. 16-3.

⁵Doc. 16-4.

1 Merrill Lynch and information about Wright's position with the company in relation to
2 John H. Snead's accounts.

3 In the Spring of 2018, the parties litigated an attorney-client privilege issue in
4 state court.⁶ Wright argued that the attorney-client privilege should be waived in relation
5 to certain communications between John H. Snead and his attorneys. The court found
6 in Wright's favor and granted her request for attorneys' fees in connection with the
7 motion. Monique Snead filed a motion for reconsideration, but the request was denied.

8 A few months later, Monique Snead filed an offer of judgment for \$10,000.⁷ She
9 later filed a "Notice to the Court Regarding Pending Settlement" wherein she informed
10 the state court that the parties had reached an agreement to settle the case and were
11 formalizing the settlement paperwork.⁸ The final agreement drafted by her counsel
12 stated that the settlement covered all claims raised between the parties. The parties
13 agreed not to file any further lawsuits or other proceedings or make any demands
14 involving or relating to any of the claims, although the agreement reserved any claims
15 that the Sneads had against Merrill Lynch.⁹ The parties, however, never signed the final
16 paperwork. Instead, counsel indicated that Monique Snead and her brother wanted to
17 proceed with litigation.¹⁰

18 In April of 2019, Monique filed the current federal lawsuit against Wright and
19 Merrill Lynch. Rather than filing just as the personal representative of her father's
20 estate, she also filed individually and as the beneficiary of the John H. Snead Revocable
21 Trust and the Snead Irrevocable Trust. Her brother, John G. Snead, was also included
22 as a plaintiff— individually, as the trustee of the Snead Irrevocable Trust, and as

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24 ⁶Dos. 16-6, 16-7, 16-8.

25 ⁷Doc. 16-9.

26 ⁸Doc. 16-10.

27 ⁹Doc. 16-11.

28 ¹⁰Doc. 16-12.

1 beneficiary of the two trusts. The federal lawsuit includes one claim against Wright,
2 alleging she wrongfully removed funds from the trusts. The other claims are brought
3 against Merrill Lynch wherein the Sneads allege that Merrill Lynch breached its fiduciary
4 duty regarding the trusts, that it is vicariously liable for the actions of Wright, and that it
5 was negligent in hiring, training, and supervising Wright.

6 **III. STANDARD OF REVIEW**

7 Defendant Wright requests that the federal claim for undue influence against her
8 be stayed pending the concurrent and parallel state court action against her. She
9 argues that a stay is warranted under the *Colorado River* doctrine, which is "a form of
10 deference to state court jurisdiction"¹¹ that may be applied when "traditional abstention
11 principles do not apply, yet considerations of wise judicial administration, giving regard
12 to conservation of judicial resources and comprehensive disposition of litigation,
13 nonetheless justify a decision to stay or dismissal of federal proceedings pending
14 resolution of concurrent state court proceedings."¹² The circumstances in which the
15 doctrine should be applied, however, are "exceptional" and "rare."¹³ The doctrine is a
16 "narrow exception to the virtually unflagging obligation of the federal courts to exercise
17 the jurisdiction given them."¹⁴

18 A precondition to the application of the *Colorado River* doctrine is that the state
19 and federal claims be "substantially similar."¹⁵ "Exact parallelism" is not required.¹⁶ It is
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22 ¹¹*Coopers & Lybrand v. Sun-Diamond Growers of CA*, 912 F.2d 1135, 1137 (9th Cir.
23 1990).

24 ¹²*Smith v. Cent. Ariz. Water Conservation Dist.*, 418 F.3d 1028, 1032-33 (9th Cir. 2005).

25 ¹³*R.R. St. & Co. Inc. v. Transp. Ins. Co.*, 656 F.3d 966, 977-78 (9th Cir. 2011).

26 ¹⁴*Smith*, 418 F.3d at 1033 (internal quotation marks omitted).

27 ¹⁵*Seneca Ins. Co. v. Strange Land, Inc.*, 862 F.3d 835, 845 (9th Cir. 2017).

28 ¹⁶*Nakash v. Marciano*, 882 F.2d 1411, 1416 (9th Cir. 1999).

sufficient if the "same relevant conduct" and "same pertinent parties" are involved.¹⁷ If the claims are substantially similar, courts must consider eight different factors to determine whether the circumstances warrant a stay:

(1) which court first assumed jurisdiction over any property at stake; (2) the inconvenience of the federal forum; (3) the desire to avoid piecemeal litigation; (4) the order in which the forums obtained jurisdiction; (5) whether federal law or state law provides the rule of decision on the merits; (6) whether the state court proceedings can adequately protect the rights of the federal litigants; (7) the desire to avoid forum shopping; and (8) whether the state court proceedings will resolve all issues before the federal court.¹⁸

"These factors are to be applied in a pragmatic and flexible way, as part of a balancing process rather than as a mechanical checklist."¹⁹ Some factors may not apply, and "doubt as to whether a factor exists should be resolved against a stay."²⁰

IV. DISCUSSION

A. Substantial Similarity

The claims against Wright in state court are substantially similar to the claim against her in this federal action, thereby satisfying the threshold *Colorado River* question. The state court claims against Wright are for undue influence and conversion and are based in large part on her alleged relation to the unauthorized withdrawal of money from the two trust accounts. The federal court claim against Wright is for "Wrongful Removal of Assets" and undue influence and, like the state court claims, are based on her alleged relation to the unauthorized withdrawal of money from the same accounts. Therefore, the actions against Wright in state and federal court arise out of the same alleged conduct and seek to vindicate the same rights.

¹⁷*Montanore Minerals Corp. v. Bakie*, 867 F.3d 1160, 1170 (9th Cir. 2017).

¹⁸*R.R. St.*, 656 F.3d at 978-79 (internal footnotes omitted).

¹⁹*Am. Int'l Underwriters (Philippines), Inc. v. Continental Ins. Co.*, 843 F.2d 1253, 1257 (9th Cir. 1988).

²⁰*Seneca Ins. Co.*, 862 F.3d at 842.

1 The Sneads argue that the actions are not sufficiently similar because the state
2 court action was brought by the estate of John H. Snead, with Monique Snead bringing
3 the action only in her capacity as the representative of her father's estate. They argue
4 that the state court action "contains no claims from a party with standing to seek relief
5 related to the Trusts."²¹ The court is not persuaded that the differences in how the
6 Sneads decided to pursue their two complaints makes the claims against Wright
7 dissimilar for purposes of a *Colorado River* analysis. As noted by Wright in her reply
8 brief, a simple "head count" that "ignor[es] the substance of the claims brought and the
9 interests represented in the state court action" is not the appropriate process for
10 determining substantial similarity.²² Indeed, the determination of whether to stay federal
11 proceedings under *Colorado River* does not rest on some "mechanical checklist" but
12 rather is a pragmatic and flexible analysis.²³

13 The pertinent parties in the state and federal cases are the same. Both actions
14 are spearheaded and directed by Monique Snead and John G. Snead in their various
15 capacities related to their father's estate and trusts. Both Monique Snead and John G.
16 Snead are represented by the same attorney and that attorney is litigating both the state
17 court case and the federal case. Both individuals have been involved in the state court
18 case.²⁴

19 While the estate is the only plaintiff in the state case, the complaint and discovery
20 clearly show that the primary goal of that case is not simply to recover real and personal
21 property that allegedly belong to the estate but also to recover money that was
22 wrongfully taken from the Snead trusts. That is to say, it is clear that the state complaint
23 is raising claims on behalf of the Snead Irrevocable Trust and the John H. Snead

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25 ²¹Doc. 23 at p. 6.

26 ²²Doc. 26 at p. 2.

27 ²³*Am. Int'l Underwriters*, 843 F.2d at 1257.

28 ²⁴Doc. 26-2; 16-12;

1 Revocable Trust.²⁵ Moreover, as pointed out by Wright, the value in the state case rests
2 primarily on the allegations surrounding the two trusts—the value of the money alleged
3 to have been wrongfully taken out of the Snead Irrevocable Trust amounts to over
4 \$500,000 with an additional amount of around \$300,000 taken from the revocable trust
5 account, while the value of the property alleged to have been wrongfully diverted from
6 the estate prior to John H. Snead's death is around \$200,000. The Sneads now argue
7 that they filed this federal case after realizing that the trusts lie outside of the estate, but
8 the court finds such an argument disingenuous, as the trust documents were in the
9 estate's possession at least at the time initial disclosures were exchanged and the trust
10 documents show that the trust assets were separate.²⁶ The estate nonetheless pursued
11 the trust allegations in state court.

12 Monique Snead, as representative of the estate, has litigated the trust claims in
13 state court and in turn has protected the interests of herself and her brother as the two
14 beneficiaries of the trusts. The fact that Monique Snead did not pursue the state court
15 claim in her capacity as a beneficiary or include her brother in the suit in his capacity as
16 beneficiary and trustee is of no consequence here, as under Alaska law neither the
17 trustee nor the beneficiaries are necessary parties to an action involving a trust as long
18 as that trust's beneficiaries are being adequately represented.²⁷

23 ²⁵The complaint alleges that Wright wrongfully withdrew or transferred funds "from
24 accounts belonging to Mr. Snead" (Doc. 16-2 at ¶ 8) and Monique Snead's answers to Wright's
25 interrogatories makes clear that her allegations involve the withdrawal of money from the John
26 H. Snead Revocable Trust (Doc. 16-3 at p.4). Monique Snead propounded discovery in the
state case that focused on gathering information about the withdrawals from both of the Snead
trust accounts (Doc. 26-4 at pp. 7-8; doc. 16-4).

27 ²⁶See doc. 26-3.

28 ²⁷*In re Pac. Marine Ins. Co. v. Harvest States Coop.*, 877 P.2d 264, 269 (Alaska 1994).

1 The inclusion of Merrill Lynch as a defendant in this federal action does not make
2 it dissimilar from the state action. Wright is seeking only a stay as to the federal claim
3 against her. Partial stays under the *Colorado River* doctrine are permissible.²⁸

4 **B. Colorado River Factors**

5 Having determined that the state and federal claims against Wright are
6 substantially similar, the court turns to the specific factors that determine whether a stay
7 under *Colorado River* is appropriate. The first two factors—which court first assumed
8 jurisdiction over any property over which jurisdiction has been asserted and the
9 inconvenience of the federal forum—are not relevant to the analysis. There is no
10 property at stake and both state and federal courts are located in Anchorage, Alaska.
11 Therefore, these two factors can be disregarded in the court's balancing process.²⁹

12 **1. Avoiding piecemeal litigation**

13 "Piecemeal litigation occurs when different tribunals consider the same issue,
14 thereby duplicating efforts and possibly reaching different results."³⁰ However, "[a]
15 general preference for avoiding piecemeal litigation is insufficient to warrant abstention"
16 because "[a]ny case in which *Colorado River* is implicated will inevitably involve the
17 possibility of conflicting results, piecemeal litigation, and some duplication of judicial
18 efforts"³¹ There must be exceptional circumstances that make piecemeal litigation
19 "particularly problematic."³² Exceptional circumstances can include a clear federal
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22 ²⁸See *ScriptsAmerica, Inc. v. Ironridge Global LLC*, 56 F. Supp. 3d 1121, 1146-47 (C.D.
23 Cal. 2014) (explaining that district courts in the Ninth Circuit have found partial stays permissible
24 "where some, but not all, of a federal plaintiff's claims are pending in a parallel state action.").

25 ²⁹See *Nakash*, 882 F.2d at 1415 n.6 (noting that factors that are irrelevant to the
26 particular situation are disregarded).

27 ³⁰*Am. Int'l Underwriters*, 843 F.2d at 1258.

28 ³¹*Seneca Ins. Co.*, 862 F.3d at 842 (internal quotation marks omitted).

³²*Id.* at 843.

1 policy that the claims should be tried in state courts or some other "special or important
2 rationale" for staying the federal action.³³

3 The fact that the claims against Wright proceeded to near completion in state
4 court suggests that duplicative litigation could be particularly problematic. The parties
5 already exchanged discovery and litigated the issue of whether the attorney-client
6 privilege between John H. Snead and his attorneys had been waived. Wright prevailed
7 on that motion. Monique Snead filed an offer of judgment and a notice of settlement.
8 The court entered an order enforcing the settlement. While the state court later allowed
9 the estate to file a late opposition to the motion to enforce the settlement and is now
10 considering the matter anew, relitigation of the same issue in federal court while the
11 state court case is considering whether the matter has in fact been settled appears to
12 present a unique problem of wasted judicial efforts. However, in the event this specific
13 circumstance is insufficient to meet the piecemeal litigation factor, the court finds that a
14 stay is nonetheless warranted because, as set forth below, the balance of the remaining
15 factors still weigh strongly in favor of a stay.

16 **2. The Order in Which the Forums Obtained Jurisdiction**

17 Another factor to consider is which of the forums first obtained jurisdiction. This
18 factor compares not just the filings dates of the two actions but also the relative
19 progress made in the two proceedings.³⁴ The state court case was filed over a year and
20 a half before this federal action. Discovery and motion practice have already occurred
21 in the state case. As noted above, the case has proceeded to a dispute about whether
22 the parties in fact have an enforceable settlement agreement that would resolve the
23 matter. Given the substantial progress that has occurred in the state court litigation, the
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27 ³³*Id.*

28 ³⁴*Montanore*, 867 F.3d at 1168.

1 Sneads "should . . . be bound by its initial choice of the state forum."³⁵ Therefore, this
2 factor weighs strongly in favor of a stay.

3 **3. Source of Law**

4 Which source of law governs the dispute is a more influential factor when there
5 are federal issues presented or when the state law is particularly complex or difficult
6 enough to render the state court better suited to apply the law.³⁶ The issue of whether
7 Wright unduly influenced and took money from the Snead trust accounts will be
8 resolved under state law. There are no federal issues presented here that would weigh
9 in favor of denying a stay, but neither are there complex matters of law presented here
10 that weigh in favor of a stay. Therefore, the court finds that this factor is neutral to the
11 analysis.

12 **4. Adequacy of the Forum to Protect the Rights of the Federal Litigants**

13 "A district court may not stay or dismiss the federal proceeding if the state
14 proceeding cannot adequately protect the rights of the federal litigants."³⁷ Here, the
15 Sneads do not contend that they are unable to allege any cause of action in the state
16 action, that the state court lacks jurisdiction to hear the claims asserted in this case, or
17 that the state court cannot grant the relief sought. However, this factor, like source of
18 law, "is more important when it weighs in favor of federal jurisdiction."³⁸ That is, the fact
19 that state court will adequately protect the litigants' rights may weigh in favor of granting
20 a stay, but it is not a highly influential factor in the overall balancing process.

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24 ³⁵*Am. Int'l Underwriters*, 843 F.2d at 1259.

25 ³⁶*See, e.g., Nakash*, 882 F.2d at 1416; *Davis v. Koz*, No. 2:18-cv-06597, 2018 WL
26 6444896, at *3 (C.D. Cal. Dec. 04, 2018).

27 ³⁷*R&R St.*, 656 F.3d at 981.

28 ³⁸*Travelers Indem. Co. v. Madonna*, 914 F.2d 1364, 1370 (9th Cir. 1990) (internal
quotation marks omitted).

1 **5. Avoiding Forum Shopping**

2 The forum shopping factor considers "whether either party improperly . . .
3 pursued suit in a new forum after facing setbacks in the original proceeding."³⁹ Monique
4 Snead filed suit in state court in September of 2017. The parties conducted discovery
5 and a dispute arose about whether the attorney-client privilege should apply to
6 communications between John H. Snead and his attorneys. The court ruled in favor of
7 Wright on that matter, and the Sneads subsequently decided to settle with Wright. In
8 September, Monique Snead filed a notice of settlement and represented to the court
9 that they had a settlement agreement and were finalizing paperwork. Counsel for
10 Monique Snead drafted the paperwork and sent it to Wright's counsel. The Sneads
11 then changed their minds about the settlement, and in March 2019 informed Wright that
12 they wanted to proceed with the lawsuit. Within a month the Sneads had filed a
13 complaint in federal court. As noted above, while the federal complaint adds Merrill
14 Lynch as a defendant, it raises the same allegations against Wright with the same
15 goal—to recover money they believe she wrongfully took from the trusts. Based on the
16 sequence of events, the court concludes that the Sneads were seeking to avoid the
17 state court proceedings and potential enforcement of the settlement when they filed in
18 federal court. This factor weighs strongly in favor of a stay.

19 **6. Resolution in State Court**

20 This final factor is part and parcel of the threshold question of similarity. The
21 court must look at whether the state and federal claims are similar enough that the state
22 court can fully resolve the issues between the parties.⁴⁰ Given that the claim against
23 Wright in federal court is essentially the same as the claims against her in state court,
24 as more particularly explained above, the court has confidence that the state litigation
25 can end the dispute between the Sneads and Wright. Indeed, if the state court finds

26 _____
27 ³⁹*Seneca Ins. Co.*, 862 F.3d at 846.

28 ⁴⁰*Montanore*, 867 F.3d at 1170.

1 that the parties had an agreement to settle and enforces that agreement, the Sneads'
2 litigation with Wright ends. If the court does not enforce the settlement agreement, the
3 parties can continue to litigate the matter to a resolution in state court. Indeed, as noted
4 above, the state court has been presiding over the matter for almost two years and has
5 made far more progress towards resolution than this court.

6 **C. Balancing the Colorado River Factors**

7 Taking the relevant factors into consideration, five of the six favor a stay. The
8 order in which the forums obtained jurisdiction, the desire to avoid forum shopping, and
9 the ability of the state court to resolve the issues between the Sneads and Wright all
10 weigh strongly enough in favor of a stay to tip the balance away from the exercise of
11 federal jurisdiction. Whether the state court can protect the rights of the federal litigants
12 also weighs in favor of a stay, but to a lesser extent. Furthermore, the desire to avoid
13 piecemeal litigation should also weigh in favor of a stay here, although the court
14 concludes that the other factors can justify a stay on their own. The last relevant
15 factor—which law provides the rule of decision—is a neutral factor here, as it clearly
16 does not tip the scale back towards the exercise of federal jurisdiction.

17 **V. CONCLUSION**

18 Based on the preceding discussion, Defendant's motion to stay at docket 15 is
19 GRANTED. The parties are directed to inform the court when a resolution or final
20 judgment is reached in the state court proceedings.

21 DATED this 28th day of July 2019.

22
23 /s/ JOHN W. SEDWICK
24 SENIOR JUDGE, UNITED STATES DISTRICT COURT
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28